

REGISTER OF ACTIONS[CASE NO. D-202-CV-2017-02910](#)**Jorge Felix Gonzales-Acosta v. Bristol West Insurance Company**§
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§Case Type: **Tort Auto**
Date Filed: **04/25/2017**
Location:
Judicial Officer: **Bacon, C. Shannon****PARTY INFORMATION**

		Attorneys
Defendant	Bristol West Insurance Company	
Plaintiff	Gonzales-Acosta, Jorge Felix	Anthony James Ayala <i>Retained</i> 505-344-0401(W)

EVENTS & ORDERS OF THE COURT

	OTHER EVENTS AND HEARINGS	
04/25/2017	Cause Of Actions	Bad Faith
	Action Type	Action
04/25/2017	Cause Of Actions	Trade Practices Act
	Action Type	Action
04/25/2017	Cause Of Actions	Other Damages
	Action Type	Action
04/25/2017	ARB: CERT NOT SUBJECT	
04/25/2017	OPN: COMPLAINT	
05/03/2017	Summons	
	Bristol West Insurance Company	Unservd

FINANCIAL INFORMATION

	Plaintiff Gonzales-Acosta, Jorge Felix	
	Total Financial Assessment	132.00
	Total Payments and Credits	132.00
	Balance Due as of 06/23/2017	0.00
04/27/2017	Transaction Assessment	132.00
04/27/2017	File & Serve Payment Receipt # ALBD-2017-11937	Gonzales-Acosta, Jorge Felix (132.00)

SECOND JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF BERNALILLO

NO. D-202-CV-2017-02910

JORGE FELIX GONZALES-ACOSTA,

Plaintiff,

-VS-

BRISTOL WEST INSURANCE COMPANY,

Defendant.

COMPLAINT TO RECOVER DAMAGES FOR INSURANCE BAD FAITH

Plaintiff by and through his attorney, Anthony James Ayala, states on his own knowledge upon information and belief as follows:

1. Plaintiff is a citizen of the State of New Mexico residing in the County of Bernalillo, New Mexico, and was involved in a hit and run accident in Bernalillo County.
2. Defendant Bristol West Insurance Company is a foreign corporation with its principal place of business located in Oklahoma City, Oklahoma. Defendant is duly authorized by the State of New Mexico to transact business in the State of New Mexico as a provider of vehicle insurance. At all times relevant to this Complaint defendant was doing business in the State of New Mexico.
3. The incidents, acts and omissions giving rise to this Complaint occurred in the County of Bernalillo, New Mexico.
4. Venue in this court is proper.

5. At all times material herein, defendant acted through its agents and employees acting in a managerial capacity within the purpose and scope of their agency or employment. The acts and conduct herein were know to, authorized and ratified by defendant.

COUNT I

Breach of Covenant of Good Faith and Fair Dealing

6. Plaintiff realleges and hereby incorporates by reference the allegations contained in Paragraphs 1 through 5.

7. In the State of New Mexico, the Defendant through it's agents, issued to Plaintiff an automobile insurance policy #G007744951, which included but was not limited to uninsured motorist coverage, by the terms of which defendant Bristol West Insurance Company agreed to provide Plaintiff uninsured motorist bodily injury coverage including those for punitive damages as it related to the personal injury. The policy took effect on April 26, 2016 and was in full force and effect at all times material to the allegations of this Complaint.

8. On or about May 21, 2016 in Bernalillo County, the Plaintiff was driving Eastbound on Niese Drive S.W., and was struck in the passenger side at the intersection of Douglas Road S.W., by an unknown vehicle. The vehicle that hit plaintiff fled from the crash, and as a result of the crash Plaintiff's vehicle was totaled out and he suffered personal injuries which required treatment.

9. Plaintiff filed a claim for uninsured benefits under his vehicle policy on behalf of himself for the personal injury and punitive damages that he was entitled to.

10. Defendant had the duty to act in good faith and deal fairly with plaintiff.

11. The Plaintiff tendered his medical bills to Defendant and requested the

policy limits of \$25,000.00 under his policy; which he is legally entitled to, but the Defendant has refused to pay Plaintiff in full for what he is due and owing.

12. Defendant has offered a small amount to Plaintiff to settle the claim, however, has refused to pay the Plaintiff the amount that is due and owing under the policy.

13. The conduct of Defendant Bristol West Insurance Company in refusing to pay what he is owing and due under his insurance policy is extreme and outrageous; Defendant Bristol West Insurance Company intends to intimidate plaintiff to compel him to settle for a very small amount or a fraction of the policy limits he is due.

14. Defendant Bristol West Insurance Company willfully, recklessly and without regard for the rights of Plaintiff has breached the duty of good faith and fair dealing owed to Plaintiff by:

A. Withholding payment under the policy of the policy limits of \$25,000.00 knowing that Plaintiff's claim for benefits under the policy to be valid.

B. Failing to provide a reasonable explanation of the basis relied upon in refusal to pay the Plaintiff the policy limits of \$25,000.00, after review of medical and hospital records and bills, in relation to the applicable facts and law.

C. Attempting to induce Plaintiff to settle or compromise Plaintiff's claim for less than the amount to which Plaintiff is entitled by offering to pay only a fraction of what is owed under the Plaintiff's policy.

15. Due to Defendant's bad faith breach of insurance contract, Plaintiff has been injured in the amount to be proven at trial, i.e., but not limited to Plaintiff's liability

for all medical expenses resulting from the accident, damages for pain and suffering, punitive damages, interest and other costs related to delayed payment of the entire claim with the tender of full policy limits.

16. Plaintiff has suffered severe emotional distress as the result of Defendant's wrongful acts and omissions.

WHEREFORE, Plaintiff demand judgment against and the following relief from defendant:

- a. The amount of plaintiff's actual damages resulting from defendant's wrongful acts and omissions as stated in the Complaint, including the entire amount of the claim plus all related costs and expenses due to delayed payment by defendant Bristol West Insurance Company.
- b. Plaintiff's attorney fees and costs in this action.
- c. Exemplary and punitive damages in an amount that will deter defendant and others from such wrongful conduct in the future and punish them for their behavior as alleged in this Complaint;
- d. Such other relief as the Court deems appropriate.

COUNT II

Violation of the Unfair Insurance Practices Act

17. Plaintiff incorporates by reference the allegations of paragraphs 1 through 16 of this Complaint.

18. The action of defendant, its agents and employees as set forth above, constitute unfair insurance trade practices prohibited by New Mexico Statutes.

19. As a direct and proximate result of defendant's unfair insurance trade practices,

Plaintiff has suffered damages

WHEREFORE, plaintiff demands judgment against and the following relief from the defendant:

- a. The amount of Plaintiff's actual damages resulting from defendant's acts and omissions as stated in this Complaint, including the entire amount of the claim plus related costs and expenses due to delayed payment by defendant Bristol West Insurance Company;
- b. Plaintiff's attorney's fees and costs of this action;
- c. Exemplary and punitive damages in an amount that will deter defendant and others from such wrongful conduct in the future and punish them for their behavior as alleged in this Complaint; and
- d. Such other relief as the Court deems appropriate.

COUNT III

Violations of Unfair Practices Act

20. Plaintiff incorporates by reference the allegations of paragraphs 1 through 25 of this Complaint.

21. Defendant's wrongful acts and omissions as alleged in this Complaint were Willful violations of the Unfair Practices Act of New Mexico.

22. As a direct and proximate result of defendant's violations of the Unfair Practices Act, plaintiff has suffered damages.

WHEREFORE, Plaintiff demands judgment against and the following relief from Defendant:

- a. The amount of plaintiff's actual damages resulting from defendant's acts and

omissions as stated in this Complaint, including the entire amount of the claim plus all related costs and expenses due to delayed payment by defendant Bristol West Insurance Company;

- b. Plaintiff's attorney fees and costs of this action;
- c. Exemplary and punitive damages in an amount that will deter defendant and others from such wrongful conduct in the future and punish them for their behavior as alleged in the Complaint; and
- d. Such other relief as the Court deems appropriate.

COUNT IV

Intentional Infliction of Emotional Distress

23. Plaintiff incorporates by reference the allegations of paragraph 1 through 22 of this Complaint.

24. Defendant intentionally inflicted emotional distress upon Plaintiff in its dealings with him as described in this Complaint.

WHEREFORE, plaintiff demands judgment against and the following relief from defendant:

- a. Damages for emotional distress resulting from defendant's acts and omissions as stated in this Complaint;
- b. Exemplary and punitive damages in an amount that will defer defendant and others from such wrongful conduct in the future and punish them for their behavior as alleged in this Complaint;
- c. Such other relief as the Court deems appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anthony James Ayala', with a long horizontal line extending to the right.

Anthony James Ayala, Esq.
Attorney for Plaintiff
601 Parkside Place S.E.
Albuquerque, New Mexico 87123
(505) 344-0401

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

No. D-202-CV-2017-02910

JORGE FELIX GONZALES-ACOSTA,

Plaintiff,

No CV _____

BRISTOL WEST INSURANCE COMPANY,

Defendant.

PLAINTIFF'S CERTIFICATION
REGARDING ARBITRATION UNDER LOCAL RULE 2-603

I, Anthony James Ayala, attorney for the Plaintiff(s), certify that:

_____ This case is subject to arbitration under local rule 2-603. No party seeks relief other than a money judgment and no party seeks an award in excess of \$25,000.00 inclusive of punitive damages and exclusive of interest, costs and attorney fees.

XXX This case IS NOT subject to referral to arbitration under local rule 2-603 because at least one party seeks relief other than a money judgment and/or at least one party seeks an award in excess of \$25,000.00 inclusive of punitive damages and exclusive of interest, costs and attorney fees.

I further certify that the pleadings in this case are closed within the meaning of Guideline 1-5 of the Guidelines to Local Rule 2-603.

Respectfully submitted,



ANTHONY JAMES AYALA

Attorney for Plaintiff
601 Parkside Place S.E.
Albuquerque, N.M. 87123
(505) 344-0401

I hereby Certify that a true and correct copy of the forgoing certification was mailed to the Defendants on this 25TH day of April, 2017.

